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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/530,156 08/31/00 HECKER

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EXAMINER

BURGH, M
ART UNIT PAPER NUMBER

3613
DATE MAILED:

06/11/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Best Available Copy

Office Action Summary

Application No.

09/530,156

Applicant(s)

HECKER ET AL.

Examiner

Melody M. Burch

Art Unit

3613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.

- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the wheel brake pressure in the third mode of operation being excessively elevated compared to the master cylinder pressure as claimed in lines 5-7 of claim 1 and discussed on pg. 5 lines 11-13 from the bottom must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. The drawings are objected to because
 - The German labels in figure 3 should be replaced with corresponding English labels;
 - The subscript "THZ" in figure 1 does not correspond to any of the pressure subscripts discussed in the specification. Correction is required.
3. Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

Specification

4. The abstract of the disclosure is objected to because the phrase "in a remote-controlled way" in line 3 from the bottom is unclear. Correction is required. See MPEP § 608.01(b).
5. The disclosure is objected to because of the following informalities:

- Appropriate headings such as "Brief Description of Drawings" particular to US Patent format should be included;
- On pg. 4 line 3 from the bottom "mane" should be changed to --made--;
- On pg. 4 line 2 from the bottom "a" should be deleted;
- On pg. 5 lines 2 and 3 from the bottom " t_4^1 " should be changed to -- t_3 -- as suggested by the translator's note.

Appropriate correction is required.

Claim Objections

6. Claim 1 is objected to because of the following informalities:
- The subscript "TMZ" in line 3 from the bottom should be changed to "TMC" to correspond with the specification. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 1. The phrase in lines 2-3 from the bottom "in a remote-controlled way" is indefinite. It is unclear to the Examiner what the Applicant means by "a remote-controlled way".

Re: claim 1. It is unclear to the Examiner what Applicant intends to claim with the use of the phrase "monotonously diminished". By definition, the term monotonous refers to something unvarying and both the specification (the last line of pg. 6) and the drawings (fig. 2) teach away from the definition of monotony.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by DE-19501760 (corresponding to U.S. Patent 5727852 to Pueschel et al. for column, line, and figure numbers). DE-19501760 shows in figure 8 a method of operating a brake assist system which comprises a first mode shown from T0 to T1 in which the brake assist system is not actuated, a second mode of operation shown from T1 to T3 and disclosed in col. 9 lines 32-36 in which after recognition of an emergency brake situation (the exceeding of a threshold) a pressure build-up of wheel brakes is generated, and a third mode of operation shown from T3 to the end of the x-axis and disclosed in col. 9 lines 36-40 which is provided for the transition from the second into the first mode of operation, the wheel brake pressure in the third mode of operation being excessively elevated compared to the tandem master cylinder pressure in a remote-controlled way

characterized in that the amount of excess elevation is monotonously diminished in the course of time, as best understood by Examiner.

11. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Reichelt et al. Reichelt et al. show in figure 1 a method of operating a brake assist system which comprises a first mode shown at 1 in which the brake assist system is not actuated, a second mode of operation in which after recognition of an emergency brake situation or ($V_{BP} > V_{BP, THRESHOLD1}$), a pressure build-up of wheel brakes is generated as shown at 2, and a third mode of operation shown at 4 which is provided for the transition from the second into the first mode of operation, the wheel brake pressure in the third mode of operation being excessively elevated compared to the tandem master cylinder pressure in a remote-controlled way characterized in that the amount of excess elevation is monotonously diminished in the course of time as disclosed in col. 4 lines 44-49, as best understood by Examiner.

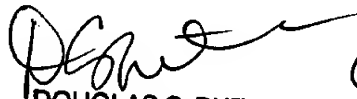
Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents: 6170924 to Nakanishi et al. figure 5 and 6027182 to Nakanishi et al figure 3 both teach the use of an inactive brake assist mode, a pressure build-up mode, and a pressure decreasing transition from pressure build-up mode to inactive brake assist mode, 6129423 to Hashimoto, 6234589 to Yoshida, 6199963 to Shimuzu teach the use of similar brake assist systems, and 5727852 to Pueschel et al. is used as an English equivalent.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Oberleitner can be reached on 703-308-2569. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

14. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

 6/7/01
DOUGLAS C. BUTLER
PRIMARY EXAMINER
AU 3613

mmb
June 6, 2001